

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

vs.

21-MJ-328

ERIC LEE GARCIA,

Defendant

MOTION FOR COMPETENCY EVALUATION

COMES NOW the Defendant, by and through counsel, pursuant to 18 U.S. Code § 4241, and *Drop v. Missouri*, 420 U.S. 162 (1975) and moves the Court for an evaluation to determine if the Defendant is competent to stand trial and as grounds states:

1. The motion is based on a good faith belief that the Defendant may not be competent to stand trial and hereby states that this motion is not being filed for the purposes of delay.
2. Defendant's attorney states without violating attorney-client privilege and based upon facts and observations about the Defendant:
 - a. Counsel has reason to believe that the Defendant has been formally diagnosed with a severe form of intellectual disability.
 - b. The Defendant has the mindset and cognitive abilities of a five (5) year old child.
 - c. Defendant has no concept of what is occurring, or the magnitude of the allegations brought forward against him.
 - d. The Defendant cannot effectively consult with Counsel and assist in preparing his defense.

3. Pursuant to 18 U.S. Code § 4241 and Fed. R. Crim. P. 12.2 (c)(1)(a) the Defendant moves the Court for an order that the Defendant's competency be professionally evaluated by a psychologist, psychiatrist or other qualified professional.
4. The United States has been contacted and does not oppose this motion.
5. The United States and Defendant agree to a competency evaluation conducted by Julie Brovko, PhD.
6. The Defendant is indigent.

WHEREFORE, Defendant prays that the Court issue an order for an evaluation or to send the Defendant to a BOP Medical Center to determine his competency to stand trial and assist in the defense.

Respectfully Submitted,
ADVOCATE LAW CENTER, P.A.

/s/ Lucas B. Babycos
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Attorney for Defendant

I HEREBY CERTIFY that on the 15th day of March 2021, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing, and that a true and correct copy were sent via Electronical Mail to: **caseview.ECF@usdoj.gov**